IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

WP(C).No. 33155 of 2006(Y)

PETITIONER:

N.A.KAREEM, MUNEER MANZIL,
VADAKKEVILA, BALARAMAPURAM, THIRUVANANTHAPURAM.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS:

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1. THE DISTRICT CO-OPERATIVE BANK,
TRIVANDRUM, REPRESENTED BY ITS GENERAL MANAGER.

2. THE REGISTRAR OF CO-OPERATIVE
SOCIETIES, THIRUVANANTHAPURAM.

R1 BY STANDING COUNSEL SRI T.R.RAMACHANDRAN NAIR
R2 BY SR. GOVT. PLEADER SRI.P.N.SANTHOSH.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/12/2006, ALONG WITH WPC NO. 33301 OF 2006 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M. JAMES, J.

W.P.(C) Nos. 33155 & 33301 of 2006

Dated this the 20th December, 2006.

J U D G M E N T

The writ petitioner in W.P.(C) No.33155/2006 is one of the member of the Board of Directors of the first respondent, District Co-operative Bank, in short 'the Bank', he having been delegated as the member of the Director Board, by virtue of his membership in the committee of the Kalliyoor Housing Co-operative Society Ltd., in short 'the Society', under Rule 44A of the Kerala Co-operative Society Rules, 1969, in short 'the Rules'. As the Society is a defaulter, its delegation ended, and, therefore, he ceased to be the member of the Bank. Hence, as per Ext.P4, dated 28.11.2006, the Registrar of Co-operative Societies issued a show cause notice, why he should not be be disqualified under Rule 46(e) of the Rules. The same is under challenge through this writ petition.

2. The first writ petitioner in W.P.(C) No.33301/2006 is the member society, and the second writ petitioner is the President of the District Co-operative Bank, Thiruvananthapuram. He was also delegated from the first writ petitioner Society. The latter Society also is said to be in

default. Therefore, Ext.P5 show cause notice was issued by the Registrar, whey the second writ petitioner should not be disqualified under Rule 46(e) of the Rules. Hence, the writ petitioners are before this Court.

3. Under Rule 44(3) of the Rules, if any person is or becomes disqualified to be a member of the Committee, the Registrar may in writing declare that the said member shall cease to be a member of the Society concerned from the date of such disqualification.

4. Counsel appearing for writ petitioners in both the cases, submitted that as the Society from which they are the members, and from which they are delegated to the Bank, is alleged to be defaulters, the Societies are also to be heard, before disqualifying the delegated members of the Bank.

5. It is brought to my notice that the delegated members to whom show cause notices were issued had filed a reply, the Registrar had also heard both of them, and the order is pending. Under Section 99 of the Kerala Co-operative Societies Act, in short 'the Act', the decision of the Registrar has to be pronounced on the day on which the case is finally heard, or on some future day of which due notices had to be given to the parties.

6. The learned Government Pleader, on the other hand, submitted that there is no provision to give notice to the Societies which defaults, because of which, the delegated member of that Society gets disqualified, and ceases to be a member of the delegated Society.

7. As the matter is pending with the Registrar, and the final decision is not pronounced, I dispose of the writ petition, directing the Registrar to hear the concerned Societies, which are allegedly in default, so that they will be given an opportunity to explain whether such Societies are in default or not, if they are not already heard or represented, and pass appropriate orders, on merit, within two weeks from today.

8. However, I make it clear that the Registrar shall follow Section 99 of the Act, at the time of the disposal of the matter.

J.M. JAMES,
JUDGE

nj.